

TREC Advisor

Our agency protects consumers of real estate services in Texas by ensuring qualified and ethical service providers through education, licensing, and regulation. We oversee the providers of real estate brokerage, appraisal, inspection, home warranty, right-of-way services, and timeshares, thereby safeguarding the public interest while facilitating economic growth and opportunity across Texas.



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Hydrostatic Testing -- What You Need to Know

What is a hydrostatic test?

A hydrostatic test is a method in which pipeline, plumbing, gas cylinders, boilers, and fuel tanks can be tested for strength and leaks. The testing pressure is always higher than the normal operating pressure of the system.

Is hydrostatic testing a mandatory part of the inspection of a resale of real property?

NO. A hydrostatic test is not mandatory in the inspection of a property.

Can a licensed inspector perform a hydrostatic test?

NO. Only a licensed plumber may perform a hydrostatic test on a system within a home. Only an inspector who is also licensed as a plumber may perform that test.

TREC has been made aware that real estate agents may be attempting to coerce inspectors to perform a

hydrostatic test on a home by threatening to discontinue using the services of any inspector who refuses to perform such a test.

Such behavior on the part of agents is considered acting in bad faith and not in the best interests of their client and may subject the agent to disciplinary action.

If a buyer wishes to have a hydrostatic test performed on a home, what is required?

Both TREC forms 20-13 and 30-12, The One to Four Family Residential Contract (Resale) and Residential Condominium Contract (Resale), state, "Any hydrostatic testing must be separately authorized by Seller in writing." Therefore, before any hydrostatic testing can be performed on a property, a separate document of authorization must be signed by the seller.

PLEASE NOTE: Any authorization language in the special provisions of the standard Resale contract **does not** constitute consent by a seller.

TREC Enforcement Actions

The Texas Real Estate Commission has published enforcement actions. To read the full report and get access to all of the enforcement actions taken by the Commission, please go to the TREC website and click on, "Complaints, Consumer Info" and then [click "Disciplinary Actions"](#).

From the Chair ...

The Commission met for its regular quarterly meeting on May 2 at the agency HQ in Austin. Although the agenda was short by comparison to many past meetings, the work that was accomplished was no less important. We heard reports from our Executive Committee, Budget Committee, Education Standards Advisory Committee and Real Estate Inspector Advisory Committee, from the Executive Director and each Division Director. A lot has happened since our last quarterly meeting in February and we were pleased to hear about all of the progress.

Our Executive Director informed us that Bruce Wooley, our long-serving Chief Investigator had retired at the end of April. Bruce was an exceptional manager and implemented processes for the investigative team that set a very high standard, enabling the agency to manage a large volume of cases in a very professional manner. Though he will certainly be missed, his legacy continues. Roy Minton has been promoted to Chief Investigator and will build upon the solid foundation that Bruce constructed.

We also bid farewell to Melissa Huerta, who has served as the agency's CFO for the past three years. Melissa will retire at the end of May and a search is underway to recruit her replacement. Melissa has been a great contributor to our financial stability since we became an SDSI agency and we will miss her.

Four members of agency leadership attended the ARELLO meeting in Atlanta in April and came back with good news that Texas remains at the forefront of real estate regulatory agencies worldwide. By innovation and careful focus on anticipating market developments, we strive to optimize both effectiveness and efficiency. And we are doing a very good job at both. Thanks to all of our team and our good relationships with our stakeholders – especially the professional associations of license holders.

March was spent in a flurry of nine strategic planning listening tour events across Texas.

Our Executive Director and many of our Commissioners and TALCB Board members attended events hosted by local boards of REALTORS and heard feedback from hundreds of participants on a variety of topics

aimed at making the agency more effective by addressing current issues of concern and trending developments. Our Executive Director offered a progress report on the topics of greatest concern that will be included in our 5-Year Strategic Plan which is due to Texas State Leadership by June 24th. The Commission will hold a special meeting on June 20th to finalize the plan before submission.

We also performed the Executive Director's annual performance review and amended our MOU with the TALCB Board to memorialize their role in this process. In summary, we were very pleased with Mr. Oldmixon's performance and granted him a 4% raise effective in August. Keep up the good work, Doug.

We heard progress reports on the development of next year's budget and the internal audit plan and extended the contract with our exam provider for another two years. Longer range projects including the planned SFR Issues Summit, the future facilities master plan and a quadrennial profile survey of license holders are topics that will be addressed at our next regular meeting in August. We invite you to attend and participate.



Avis Wukasch, Chair

TREC FAQ

Can an unlicensed assistant show a property to a broker's client, if all the assistant does is open the door and walk silently through the house with the clients?

No. Rule 535.4(c) clearly states that a person must be licensed as a broker or sales agent to show a broker's listings. An unlicensed assistant cannot perform any activities for a license holder that requires a license, and therefore, cannot "show" a property. The rules do not define what "show" a property means, so the Commission must interpret what that means. Generally in rule interpretation, one should look at the plain language meaning of the word and then put it into context. The Merriam Webster Dictionary defines to "show" as "to cause or permit to be seen". Taking the plain language meaning then, unlocking a house is "causing or permitting" the home to be seen. So, if an unlicensed assistant opens the house for a buyer, that constitutes showing a house.

Further, reading the rule in the context of the law's purpose of consumer protection, to allow an unlicensed person to open and enter a house for sale would effectively bypass the legislative

requirement of requiring fingerprint-based criminal history background checks for all license holders before granting or renewing a real estate license. This requirement is in place to ensure that a person with an inappropriate criminal background will not receive a license that would allow them to open and enter homes for sale.

This is a change from a previous interpretation that was contained in an old article regarding unlicensed assistants. After the criminal background check requirement became law, that interpretation became outdated and was no longer correct.

So, an unlicensed assistant cannot show the property for a license holder; this applies to both homes for sale and for lease.

IMPORTANT DATES TO REMEMBER

ESAC Committee Meeting - July 18

TREC Commission Meeting—August 15

Check the [TREC website](#) regularly for postings of all of our upcoming meetings.

Attention Qualifying Education Providers

Deadline announced for revisions to the qualifying property management course and a proposal was recommended for revisions to the real estate marketing course.

An amendment recommended by the Commission's Education Standards Advisory Committee (ESAC) to revise the curriculum of the qualifying Property Management course was adopted at the May 2nd Commission meeting. Education providers who offer this qualifying course by classroom delivery have until May 2, 2017 to revise the course to meet the new standards. Educators who offer this course by distance education have until August 2, 2017 to revise these course offerings. Students will not be awarded credit for completing the old version of these courses after the above revision dates. We encourage education providers to submit these courses to us well in advance to allow time for review and approval prior to course revision deadlines. The Qualifying Real Estate Course Application and Property Management course approval forms are available on the TREC website.

What if you've previously paid a course application fee and obtained a 4-year approval to offer a course prior to revisions to the curriculum?

You will receive a prorated credit for the unexpired time remaining on that course approval. The Commission will calculate the unexpired credit by dividing the fee paid by 48 months and multiplying the monthly prorated fee times the number of full months remaining between the date of approval and the expiration date of the prior version.

An amendment recommended by ESAC for the qualifying Real Estate Marketing course was also proposed at the May 2nd meeting and is available at the Texas Register for publication and public comment.

Take Your Child To Work Day

Fifteen children participated in "Take your Daughter & Son to Work" day. The 2016 theme is "Sparking AHA Moments" representing the greatness of imagination and new ideas. This was a fun way to introduce children to the world of work. Activities highlighted the work each division does at TREC/TALCB and how we work together as a team to provide a service the public.

Participants were able to: build their dream home and appraise the value; learn about the saving, spending and donating of money; and personalize T-shirts to take home. They were also given a replica work badge with their picture displayed. Participants enjoyed all the presentations and were particularly excited about a virtual reality presentation that highlighted how technology has made our lives easier. The children were actively engaged throughout the day. Employees enjoyed the children's excitement and curiosity to learn more about the Texas Real Estate Commission.



Rule Actions Taken at the May Commission Meeting

Adopted:

The following amendments or new rules were adopted at the May 2, 2016, meeting of the Commission and are effective May 23, 2016. You can see the full text of these rules on the "Recently Adopted Rules" section of the TREC Website.

§535.63, Approval of Instructors of Qualifying Courses. The amendments clarify qualifications needed to become an approved instructor of a TREC approved adult instructor training course. This amendment was recommended by the Commission's Education Standards Advisory Committee.

§535.64, Content Requirements for Qualifying Real Estate Courses. The amendments provide consistency and better quality in Property Management qualifying courses and was recommended by the Commission's Education Standards Advisory Committee.

§535.73, Approval of Elective Continuing Education Courses. The amendments correct the language so that it will not be misinterpreted. The statute and the intention of the Commission was to limit the daily presentation to 10 hours, not limit the length of the entire course.

Proposed:

The following amendments or new rules were proposed at the May 2, 2016, meeting of the Commission and are up for adoption at the August 15, 2016, meeting. You can see the full text of these rules on the "Proposed Rules" section of the TREC Website. Written comments on the proposed rules can be sent to general.counsel@trec.texas.gov and must be received

prior to 5 p.m. June 22, 2016 to be considered by the appropriate advisory committee and included in the materials for the August meeting. After that date, comments will need to be made in person at the meeting.

§535.53, Requirements for Licensure. The proposed amendments clarify that a business entity must be qualified to transact business in Texas at all times to maintain an active license and that the business entity must notify TREC when it is no longer qualified to transact business in Texas. In addition, the amendments more fully set out the scope of required errors and omissions insurance coverage.

§535.55, Education and Sponsorship Requirements for a Salesperson License. The proposed amendments align the rule with statutory changes in SB 699, enacted by the 84th Legislature regarding the number of hours required for continuing education and changing term "salesperson" to "sales agent."

§535.64, Content Requirements for Qualifying Real Estate Courses. The proposed amendments require certain topics to provide consistency and better quality in Real Estate Marketing qualifying courses and are recommended by the Commission's Education Standards Advisory Committee.

§535.65, Responsibilities and Operations of Providers of Qualifying Courses. The proposed amendments remove the requirement for education completion certificates to include the registration date since that information is not necessary for the Commission to calculate compliance with statutory timeframes for course completion.

§535.72, Approval of Non-elective Continuing Education Courses. The proposed amendments clarify that classroom students must take the promulgated final examination independently prior to the instructor reviewing the correct answers.

§535.83, Association of Designated Broker on Claim. The new section is proposed to clarify which designated broker is to be associated with a licensed business entity when a Real Estate Recovery Trust Account claim is filed or paid on behalf of that licensed business entity.

§535.123, Inactive Broker Status. The proposed amendments clarify that a licensed business entity becomes inactive when it is no longer qualified to transact business in Texas or its designated broker's license is suspended, including probated suspension.

§535.191, Schedule of Administrative Penalties. The proposed amendments lower the administrative penalty for bad check violations and include a penalty for violations of 22 TAC §535.53.

§535.227, Standards of Practice: General Provisions; §535.228, Standards of Practice: Minimum Inspection Requirements for Structural Systems; §535.229, Standards of Practice: Minimum Inspection Requirements for Electrical Systems; §535.230, Standards of Practice: Minimum Inspection Requirements for Heating, Ventilation, and Air Conditioning Systems; §535.231, Standards of Practice: Minimum Inspection Requirements for Plumbing Systems; §535.232, Standards of Practice, Minimum Inspection Requirements for Appliances; and §535.233, Standards of Practice: Minimum Inspection Requirements for Optional Systems. The proposed amendments restructure and renumber these sections to streamline wording and remove redundant language to provide clarity and consistency throughout the inspector SOP's.

TREC Employee Update



Debra Monroe

TREC Standards and Enforcement Services

Prior to joining the TREC team, Debra worked with the Texas Workforce Commission as a criminal investigator. Debra has 25 years of state service and is looking forward to using her experience in assisting TREC enforcement with their investigations. In her spare time, Debra likes to garden, practice Tai Chi and visit with her four adult children.



Ramona Wates

Education and Licensing Services

Ramona Wates began employment with TREC on May 2, 2016 as an Administrative Assistant in the Education and Licensing Services Division. She worked previously as an Administrative Assistant at The Texas Commission on Environmental Quality and has been employed with the State of Texas 5 years. Ramona has a Bachelor's of Business Administration degree in Administrative Management from Langston University in Langston, Oklahoma, and has completed some coursework towards her Master's degree in Public Health Management at Texas Woman's University in Denton, TX.

Outside of work, she enjoys spending time with family and friends.

Congratulations to our TOP Performer!



Alex Muthukatil

Information and Technology Services

Congratulations goes to our agency TOP performer for this quarter, Alex Muthukatil. Although Alex has been with us for less than 6 months, his contributions in the recent changeover to our new leased upgraded computers on our strengthened network have been invaluable. Adding to his tremendous technical knowledge is an extraordinarily cooperative spirit that has been noted by many who have called upon him for assistance. Thank you Alex for your outstanding contribution to our success in the last quarter!